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Attorneys for Defendant,

USAA FEDERAL SAVINGS BANK, erroneously named as

**“UNITED SERVICES AUTOMOBILE ASSOCIATION FEDERAL
SAVINGS BANK”**

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

JOSHUA MAYNARD.

Plaintiff.

vs.

USAA Federal Savings Bank

Defendants.

CASE NO. 4:21-cv-04519-JSW

[Formerly Sonoma County Superior Court Case No.
SCV-268348]

**DEFENDANT USAA FEDERAL SAVINGS
BANK'S RESPONSE TO PLAINTIFF'S MOTION
TO AMEND THE COMPLAINT**

Judge: Hon. Jeffrey S. White

Date: July 30, 2021

Time: 9:00 AM

Courtroom: 5 - 2nd Floor

USAA Federal Savings Bank (“USAA FSB”), hereby submits the following Response to Plaintiff’s Motion to Amend the Complaint.

I. **RESPONSE IN OPPOSITION**

USAA FSB generally does not oppose Plaintiff Joshua Maynard’s (“Maynard”) Motion to Amend the Complaint. Pursuant to Fed. R. Civ. P. 15(a), Maynard may voluntarily amend his Complaint once as a matter of course so long as it is done within 21 days after service of a motion under Rule 12. (See Fed. R. Civ. P. 15(a)(1)(B).) On July 7, 2021,¹ Maynard filed his First Amended Complaint and therefore, the Motion to Amend the Complaint is now moot. In an

¹ Because USAA FSB's Motion to Dismiss was filed and served on Maynard on June 15, 2021, the 21-day period under Fed. R. Civ. P. 15(a) expired on July 6, 2021. Nonetheless, USAA FSB does not object to the late-filed First Amended Complaint.

1 abundance of caution, USAA FSB hereby submits this response, requesting that the Court strike
2 Maynard's previously filed Motion to Amend the Complaint given that Maynard has already
3 voluntarily amended it.

4 USAA FSB further intends to withdraw its previously filed Motion to Dismiss the original
5 Complaint, as it is also rendered moot by the filing of Maynard's First Amended Complaint. USAA
6 FSB reserves all objections, defenses, arguments, and position relative to any of the allegations in
7 the First Amended Complaint and will respond to Maynard's new pleading as appropriate.

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9 Dated: July 7, 2021

DKM LAW GROUP, LLP

10 /s/ *Joshua Kastan*

11 By _____
12 JOSHUA N. KASTAN
13 Attorneys for Defendant
14 USAA FEDERAL SAVINGS BANK
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